Supreme Court, U. S.
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MICHAEL RODAK, JR., CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1977

No. 77-10

EXXON CORPORATION and
PHILLIPS PETROLEUM COMPANY, *Appellants*
v.
GOVERNOR OF THE STATE OF MARYLAND, et al., *Appellees*

No. 77-11

SHELL OIL COMPANY, *Appellant*
v.
GOVERNOR OF THE STATE OF MARYLAND, et al., *Appellees*

No. 77-12

CONTINENTAL OIL COMPANY, et al., *Appellants*
v.
GOVERNOR OF THE STATE OF MARYLAND, et al., *Appellees*

No. 77-47

GULF OIL CORPORATION, *Appellant*
v.
GOVERNOR OF THE STATE OF MARYLAND, et al., *Appellees*

No. 77-64

ASHLAND OIL, INC.
COMMONWEALTH OIL REFINING COMPANY, INC.
and PETROLEUM MARKETING CORPORATION, *Appellants*
v.
GOVERNOR OF THE STATE OF MARYLAND, et al., *Appellees*

PRESS OF BYRON S. ADAMS PRINTING, INC., WASHINGTON, D. C.

On Appeal from the Court of Appeals of Maryland

REPLY TO APPELLEES' OBJECTION TO MOTION OF THE CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA TO FILE A BRIEF AMICUS CURIAE AND BRIEF AMICUS CURIAE IN SUPPORT OF THE APPELLANTS.

STANLEY T. KALECZYC, JR.
NATIONAL CHAMBER LITIGATION CENTER, INC.
1615 H Street, N.W.
Washington, D.C. 20062

Counsel for the Chamber of Commerce of the United States of America

Of Counsel:

LAWRENCE B. KRAUS
GENERAL COUNSEL
CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA
1615 H Street, N.W.
Washington, D.C. 20062

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1615 H Street, N.W.
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The Chamber of Commerce of the United States of America [hereinafter the Chamber], by its attorneys, hereby replies to the objection raised by Appellees to the motion of the Chamber for leave to file a brief *amicus curiae* and brief *amicus curiae* in support of Appellants in this litigation:

1. The Chamber and its more than 69,000 business members have a substantial interest in the outcome of this litigation. The statute at issue challenges the viability of multi-tiered distribution systems utilized by integrated industries. There are at least seventeen (17) major industries or industry groupings, with annual sales in excess of $238 billion, which presently market their goods and services through company-operated and franchisee-operated outlets. The statute represents a direct assault upon the method of operation of the Chamber's members which are integrated enterprises, as well as those members which employ company-operated and franchisee-operated retail outlets.

2. Those members of the Chamber who are business purchasers of petroleum products and allied

services within the State of Maryland will be directly affected by the Motor Fuel Inspection Law at issue here. The increased cost of petroleum products which would result from the implementation of this divestiture statute will adversely affect those businessmen and women whose livelihoods are dependent upon their ability to transport persons and products through Maryland at a reasonable cost.

3. The Maryland Act, if upheld, will have a similar adverse affect on Chamber members across the Nation. In the past four years the legislatures of 32 other jurisdictions have adopted, considered, or had as pending business, proposals which parallel or are identical to the statute under consideration. Unless the decision of the court below is overturned, it will serve as a "green light" for the passage of similar legislation in other states.

4. In asserting the various interests of its members, the Chamber is fulfilling the "traditional function of an amicus . . . to assert 'an interest of its own separate and distinct from that of the [parties],' whether that interest be private or public." *United States* v. *Barnett,* 376 U.S. 681, 738 (Goldberg J., Warren Ch. J. and Douglas J. dissenting).

The Chamber submits that its discussion of the legal and policy issues directly affecting its members, both in the State of Maryland and nationwide, can materially assist in the consideration of this case. The broad issues can not be adequately addressed by the Appellants since their interests

do not represent those of the business community as a whole.

5. Finally, Appellees, in opposition to the Chamber's motion, can not be heard to say in the same breath that the Chamber's brief is "duplicative and redundant" of Appellants' arguments, and also imposes a burden upon Appellees by "unnecessarily caus[ing] further pleadings to be enlarged." These self-contradictory allegations have no basis in fact and demonstrate Appellees' total inability or unwillingness to appreciate the Chamber's role as a friend of the court in the instant case. The Chamber submits that, in determining whether to note probable jurisdiction, it is appropriate for this Court to be apprised fully of the broad-sweeping ramifications of the statute at issue as it relates to the orderly flow of commerce among the States.

For each and all of the foregoing reasons, the Motion of the Chamber of Commerce of the United States of America should be granted.

Respectfully submitted,

STANLEY T. KALECZYC, JR.
NATIONAL CHAMBER LITIGATION CENTER, INC.
1615 H Street, N.W.
Washington, D.C. 20062

Counsel for the Chamber of Commerce of the United States of America

Of Counsel:

LAWRENCE B. KRAUS
GENERAL COUNSEL
CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA
1615 H Street, N.W.
Washington, D.C. 20062

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